

0 4 FEB 2008



UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 Euclid Ave., 19th Floor
Cleveland, Ohio 44115

In re Application of	:	DECISION ON
SAZIO et al	:	
Application No.: 10/595,321	:	
PCT No.: PCT/GB2004/004257	:	
Int. Filing Date: 08 October 2004	:	PETITION UNDER
Priority Date: 10 October 2003	:	
Attorney's Docket No.: DYOUP0312US	:	
For: FABRICATION OF SEMICONDUCTOR	:	
METAMATERIALS	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An International Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 05 September 2007.

BACKGROUND

On 08 October 2004, this international application was filed, claiming an earliest priority date of 10 October 2003. A copy of the intentional application was transmitted on 21 April 2005 to the USPTO from the International Bureau. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 08 July 2004. This international application became abandoned with respect to the United States at midnight on 10 April 2006 for failure to pay the required basic national fee.

On 07 April 2006, applicant filed in the United States Patent and Trademark Office (PTO) a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, an improperly filed executed declaration under PCT Rule 4.17(iv) signed on 29 October 2004. However, no national basic fee was filed at that time.

On 02 August 2007, the United States Patent and Trademark Office mailed the Notification of Abandonment (PCT/DO/EO/909) since applicant has failed to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

On 5 September 2007, applicants faxed the instant petition under 37 CFR 1.137(b), which was accompanied by the petition fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by having submitted the basic national filing fee, (2) the petition fee set forth in § 1.17(m), and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is GRANTED.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.



Rafael Bacares

PCT Legal Examiner

PCT Legal Office

Telephone: (571) 272-3276

Facsimile: (571) 273-0459